THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.12442 OF 2006

ORDER:

The 1st petitioner claims to be a company, incorporated under the Companies Act, with the main object of carrying on the business of manufacture of number plates and embossing of *alphanumericals* on the number plates of all kinds of vehicles. The 2nd petitioner is the Director of the 1st petitioner-company. Basing on a letter dated 5.6.2006, addressed by the 2nd respondent-Deputy Transport Commissioner, West Godavari District, Eluru, informing the 3rd respondent-Superintendent of Police, West Godavari District, Eluru, that the 1st petitioner-company is doing illegal business, and requesting to cause thorough enquiry, the 4th respondent registered crime No.72/2006 on the file of the I Town Law & Order Police station, Eluru, dated 5.6.2006 under Section 420 of the Indian Penal Code against the 2nd petitioner.

In this writ petition, the petitioners seek a *mandamus* declaring the action of the 2nd respondent in lodging a complaint, and the consequential action of the 4th respondent in registering crime No.72/2006, as arbitrary and illegal, and further to direct the respondents not to interfere with the business of the petitioners.

In the affidavit filed in support of the writ petition, it is pleaded that the 1st petitioner-company has entered into a franchisee agreement dated 8.11.2005 with the Director of Emperor Granites Pvt. Ltd. New Delhi, for the purpose of procurement and selling High Security Number Plates in the State of Andhra Pradesh, subject to the terms and conditions of the said agreement. In pursuance of the said agreement, the 1st petitioner-company has been negotiating with various agents in several districts of Andhra

Pradesh. While so, Eenadu Telugu daily newspaper published a news item on 5.6.2006 alleging that the petitioners were collecting funds from the agents from various districts without any authorization. The said news item was also telecast in ETV 2 channel on the same day. Basing on the said news report, the 2nd respondent addressed a letter to the 3rd respondent referring to the said news item, and complaining that the petitioners are doing illegal business, marking a copy to the 4th respondent. The said complaint was registered against the 2nd petitioner as FIR 72/2006 by the 4th respondent. It is stated that the contents of the news item dated 5.6.2006 were misguiding and the transactions being carried on by the 1st petitioner-company in the regular course of its business were misinterpreted. The 2nd respondent without verifying the correctness of the said allegations, lodged a complaint with the respondents 3 and 4, on the basis of which, Cr.No.72/06 was registered. It is alleged that on the said day at 7 p.m. the directors of the 1st petitioner-company were called to the Police Station and the Office of the 1st petitioner-company was also sealed. It is contended that the entire action of the respondents is arbitrary and illegal, and violative of the fundamental rights guaranteed under Article 19(1)(g) and 21 of the Constitution of India. Hence, this writ petition.

I have heard the learned counsel for the petitioners and the learned Government Pleader appearing for the respondents.

The learned counsel for the petitioner contended that, on the face of it, the complaint does not disclose commission of any cognizable offence and, therefore, the action of the 4th respondent in registering crime No.72/06 is arbitrary and illegal. It is also contended that in the absence of a complaint by any individual, the action of the 2nd respondent in addressing a letter to the respondents 3 and 4, to take action merely on the basis of a news items, which has no evidentiary value, is unwarranted and unjustified.

On behalf of respondents 3 and 4, the Sub-Inspector of Police, Eluru, filed a counter-affidavit stating that the matter is under investigation, and necessary action will be taken after completion of the investigation. It is further explained that the investigation done so far disclosed that the 2nd petitioner had induced public, falsely representing that the contract of fixing number plates has been awarded to his company, and that the agency was selling the rights district-wise. So far no arrests have been made, and the investigation is pending for want of verification of certain documents. The allegations of the petitioners that the 4th respondent had sealed the Office of the 1st petitioner-company, and that the police had called the directors of the 1st petitioner-company to the Police Station for the purpose of investigation, have been specifically denied, and it is stated that the 4th respondent never seized the material from the registered office of the 1st petitioner-company; and that the office was never locked by him as alleged by the petitioners. The 4th respondent assures that the investigation would be completed expeditiously, and appropriate report/charge sheet would be filed before the concerned Court.

From the material on record, it is clear that a news item was published in Eenadu telugu daily under the caption "**Pavanasutha Idem Katha**", stating that the 1st petitioner-company has been falsely representing that it was awarded contract of fixing High Security Number Plates, and has been entering into agreements for appointment of agents in several district of the State. The said news item was brought to the notice of the respondents 3 and 4 by the 2nd respondent, stating that the Government has not yet invited any tenders for awarding the contract of fixing of High Security Number Plates; and that the 2nd petitioner has been cheating public in the name of the Government. The said allegations, if established, would

undoubtedly amount to an offence punishable under Section 420, IPC. Hence, it cannot be said that the action of the 4th respondent in registering FIR 72/06, is either arbitrary or illegal.

As held by the Supreme Court in **State of Haryana v. Bhajanlal** (1992 SCCC (Crl.) 426)), this Court will not embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations in the complaint at this stage. Whether the alleged offence under Section 420, IPC, is made out or not is a matter to be enquired into by the Investigating Officer. The 2nd respondent, being a public Officer, is justified in bringing the allegations against the petitioners, as found in the news item. The law is well settled that recording of the First Information is only for the purpose of setting in motion of a criminal investigation. It is always open to the Investigating Officer to proceed on the basis of the said information, and the charge sheet will be filed for the offence under appropriate provision, only if the allegations are established.

Having regard to the facts and circumstances of the case, I am unable to hold that the action of the 4th respondent, in registering Cr.No.72/06, is either arbitrary or illegal, and interference by this Court at this stage is not warranted.

So far as the allegations that the respondents 3 and 4 are interfering with the business of the 1st petitioner are concerned, as noted above, the said allegations are denied in *toto* in the counter-affidavit filed on behalf respondents 3 and 4. They have categorically stated that the Office of the 1st petitioner-company was never sealed, no arrests have been made, no material was seized, and that the whereabouts of the 2nd petitioner are not known. No material has been placed before this Court to substantiate the allegation that the petitioners are being harassed in any manner whatsoever, by the respondents.

In the circumstances, recording the statement of the

respondents in their counter-affidavit that they are not interfering with the business of the 1st petitioner company, Writ Petition is disposed of. No costs.

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(G. ROHINI,)

July 3rd, 2006.

Kgr

Note:- CC by 5-7-2006.

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.12442 OF 2006

July 3, 2006.

Between:

Pavana Sutha Plate embossers Private Limited,
405, Surya Residency, Agraharam,
Opp:BSNL Office, Western Street, Eluru,
represented by its Chairman & Managing Director,
Mrs. Angaluri Thomasamma and another. .. Petitioners.

And

Commissioner of Transport, Govt. of A.P.,
Somajiguda, Hyderabad and three others. .. Respondents.